IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
MOTHERSHIP VENTURES, LLC	§	**Case No. 17-31776**
	§	
Debtor	§	**Chapter 11**
		Jointly Administered

In re:	§	**CASE NO. 17-32089-H1-11**
DOWN HOUSE VENTURES, LLC	§	
Debtor	§	**Chapter 11**

	§	
DOWN HOUSE VENTURES, LLC	§	
Plaintiff	§	
	§	
vs.	§	**Adversary No. 17-03219**
	§	
TEXAS COMPTROLLER OF PUBLIC	§	
ACCOUNTS	§	
Defendant	§	

JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(f)
FEDERAL RULES OF CIVIL PROCEDURE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW, Plaintiff Down House Ventures, LLC ("Down House" or "Plaintiff"), and Defendant Texas Comptroller of Public Accounts and file this Joint Discovery/Case Management Plan Under Rule 26(f) Federal Rules of Civil Procedure; and the parties would respectfully show:

I. State when the parties conferred as required by Rule 26(f), and identify the counsel who conferred.

Response:

Counsel for the parties by email on July 18 and 19, 2017. Reese Baker participated for Plaintiffs. Kimberly Walsh participated for Defendant.

II. List the cases related to this one that are pending in any state or federal court with the case number and court.

Response:

Bankruptcy Case 17-32089 Joint Administration and 17-31776

III. Briefly describe what this case is about.

Response of Plaintiff: Plaintiff owns and operates a restaurant in the Heights in Houston. The Debtor filed a bankruptcy case on April 3, 2017. On April 19, 2017, with full knowledge of the pending bankruptcy case, agents for the Comptroller entered the Debtor's restaurant and took collection actions. The actions are described in detail in the original complaint in paragraphs 4-16. The actions were a violation of the automatic stay and caused damages to the Plaintiff.

Response of Defendant: On April 19, 2017, two Comptroller agents and two officers from the Texas Alcoholic Beverage Commission entered the Down House restaurant location to collect liquor taxes owed by non-Debtor entity Club Down House, NP, which operates exclusively at the same location. The Comptroller agents left the premises with cash identified as the amount of Club Down House, NP's liquor taxes on hand. Defendant's actions were not a violation of the automatic stay and did not cause a disruption in service or other damage to Plaintiff. Defendant responded in detail to paragraphs 4-16 of Plaintiff's complaint in Defendant's answer thereto.

IV. Specify the allegation of federal jurisdiction.

Response:

The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §157 and 1344,

V. Name the parties who disagree and the reasons.

Response:

None.

VI. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

Response:

Plaintiff -none known at this time. Individuals with responsibility may be added at a later date.

Defendant – None known at this time.

VII. Describe class-action issues.

Response:

None.

VIII. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

Response:

Plaintiffs will file initial disclosures on or before August 9, 2017 . Defendant will file initial disclosures on or before August 9, 2017.

IX. Describe the proposed agreed discovery plan, including:

A. Responses to all the matters raised in Rule 26(f).

Response:

Disclosures pursuant to Rule 26(a)(1) will be filed as set forth above. The parties anticipate general discovery in this case including interrogatories, requests for production of documents, requests for admission, requests for deposition on written questions, and depositions of witnesses having knowledge relevant to the issues in this case.

B. When and to whom the plaintiff anticipates it may send interrogatories.

Response:

Plaintiffs anticipate sending their first interrogatories to Defendant on or before August 31, 2017. Plaintiff may propound additional interrogatories during the discovery process should the need arise.

C. When and to whom the defendant anticipates it may send interrogatories.

Response:

Defendant anticipates sending its first set of interrogatories to Plaintiff on or before August 31, 2017. Defendant may propound additional interrogatories during the discovery process should the need arise and may also propound depositions on written questions to fact witnesses.

D. Of whom and by when the plaintiff anticipates taking oral depositions.

Response:

Plaintiffs anticipate taking the depositions of individuals who are not known at this time with relevant knowledge and information about the event and the reasons for the actions of the Comptroller. Plaintiff anticipates taking the depositions of the persons who authorized the actions and all management involved.

E. Of whom and by when the defendant anticipates taking oral depositions.

Response:

Defendant anticipates taking the oral deposition of all agents and employees of Down House, TABC agents, and any other individual(s) who were present at the Down House location on April 19, 2017.

F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.

Response:

Plaintiffs will designate experts, if any, and provide the reports required by Rule 26(a)(2)(B) on or before October 2, 2017. Defendant will designate responsive experts and provide reports by no later than November 1, 2017.

G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

Response: All experts designated by the Defendants. Plaintiffs will take the depositions of designated experts, if any, within 30 days after designation by Defendants.

H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

Response:

All experts designated by Plaintiff. Defendant will take the depositions of designated experts, if any, on the earliest date such expert makes themselves available for deposition after such expert has been designated by Plaintiff. Defendant will make every effort to depose designated experts, if any, within 30 days after designation by Plaintiff.

X. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.

Response:

None.

XI. Specify the discovery beyond initial disclosures that has been undertaken to date.

Response:

None.

XII. State the date the planned discovery can reasonably be completed.

Response: December 15, 2017

XIII. The parties anticipate that discovery can reasonably be completed by December 15, 2017.

XIV. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.

Response:

The parties believe that there may be some possibility of settlement. The parties have agreed to discuss settlement and possibly mediation after initial disclosures have been made by each party.

XV. Describe what each party has done or agreed to do to bring about a prompt resolution.

Response:

The parties have agreed to discuss settlement and possibly mediation after initial disclosures have been made by each party.

XVI. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.

Response:

The parties will explore the possibility of mediation as stated above.

XVII. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.

Response:

The parties do not wish for this case to be tried before a magistrate judge.

XVIII. State whether a jury demand has been made and if it was made on time.

Response: None requested.

XIX. Specify the number of hours it will take to present the evidence in this case.

Response: 1 day (estimated)

XX. List pending motions that could be ruled on at the initial pretrial and scheduling conference.

Response: None

XXI. List other motions pending.

Response:

None.

XXII. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.

Response:

None.

XXIII. List the names, bar numbers, addresses and telephone numbers of all counsel.

Response:

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Respectfully submitted July 19, 2017

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